

RESOLUTION NO. 683

WHEREAS, the City of Lodi has heretofore entered into an agreement with the Colorado Power Company under which a certain power site consisting of real property located on the Mokelumne River a short distance below the Pardee Dam in Calaveras and Amador Counties was conveyed to the City of Lodi for the development of a municipal hydro-electric plant; and

WHEREAS, said property was accepted by the City Council of Lodi for use and development of a municipal power project thereon, subject to the conditions subsequent in the said conveyance therein set forth; and

WHEREAS, previous to the said conveyance litigation had ensued between the Colorado Power Company, the grantor of the City of Lodi, and the Pacific Gas and Electric Company, involving the right of the said Pacific Gas and Electric Company to construct and operate its proposed new Mokelumne development and thereby trespass upon the riparian right of the Colorado Power Company; and

WHEREAS, subsequently the Supreme Court of the State of California affirmed the decision of the Superior Court of Calaveras County thereby compelling the Pacific Gas and Electric Company to annually release and return to the said river, from storage and/or natural flow, an average daily release of 475 cubic feet per second for each day so long as there is water in any of the Pacific Gas and Electric Company's storage works; and

WHEREAS, following the said conveyance litigation ensued between the City of Lodi, and the East Bay Municipal Utility District involving the extent of the right to the use of the natural flow of the Mokelumne River at said site by the City of Lodi as opposed to the asserted right of the East Bay Municipal Utility District to condemn and extinguish said water right to the extent of its proposed

ultimate operations, which litigation has now been finally terminated and the said District having acquired its said asserted right.

WHEREAS, for the purpose of protecting the City's municipal water supply, the City of Lodi has prosecuted additional litigation against said East Bay Municipal Utility District and Pacific Gas and Electric Company in the Superior Court of the County of San Joaquin, to insure a sufficient flow in the Mokelumne River to maintain the percolation into the City's wells; and

WHEREAS, the Honorable Benjamin C. Jones, Judge, presiding in the Superior Court of San Joaquin County at said trial, has rendered and entered a judgment in favor of the City of Lodi requiring specific releases by the Pacific Gas and Electric Company and East Bay Municipal Utility District of certain flows of water; and

WHEREAS, such released flows, together with all other waters of the Mokelumne River, excepting only that portion diverted from the water shed for municipal and domestic uses, will pass over and across the property conveyed to the City of Lodi by the Colorado Power Company, and such waters will be available for the development of hydro-electric energy at the said City of Lodi power site; and

WHEREAS, the City Council believes that the present and future economic development of the City of Lodi and its adjacent territory is largely dependant upon securing an assured and independent source of hydro-electric power whereby electrical energy may be available at a low cost; and

WHEREAS, the City Council believes, from previous investigations, engineering studies and reports concerning potential power development at the site acquired from the Colorado Power Company and its application to the needs of the City of Lodi and adjacent territory, that it is desirable that an examination be made at this time of the present possibility of utilizing said water releases as hereinbefore referred to, through a power plant constructed by the City

of Lodi on said lands acquired from said Colorado Power Company and the distribution of the electric energy therefrom to Lodi and a Utility District; and

WHEREAS, under the National Industrial Recovery Act passed by the Congress of these United States, there are available Federal Funds for the development of Municipal Improvements through grants and loans of money to self supporting projects; and

WHEREAS, the City Council of the City of Lodi has heretofore employed Messrs. Nelson A. Eckart, Walter L. Huber and Fred C. Herrmann, Civil Engineers of high standing and reputation in the City and County of San Francisco, to investigate and report upon the project herein under consideration prior to the termination of the above-mentioned litigation.

NOW THEREFORE BE IT RESOLVED: That in the opinion of the City Council of the City of Lodi, the present conditions dictate that further and immediate consideration be given to the development of the hereinbefore mentioned power project, and that the City Council should place itself in a position to fully and definitely inform the residents of Lodi and the adjacent territory of the feasibility of the proposed development; and be it

FURTHER RESOLVED, that for the purpose of obtaining such information the Mayor be and he is hereby authorized and directed to employ Consulting Engineers Messrs. Nelson A. Eckart, Walter L. Huber and Fred C. Herrmann to fully and completely investigate and report upon the present facts concerning costs, markets, financing and economic feasibility of the construction and operation of the Power Project as hereinbefore referred to and as it may be adapted to the needs of the City of Lodi and the adjacent territory.

FINALLY RESOLVED, that as soon as this information can be

obtained the Mayor is requested to transmit the same to the City Council for its further consideration.

Adopted in regular session of the City Council of the City of Lodi held Monday August 21, 1935, by the following vote:

Ayes: Council Weihe, Clark, Reagle,

Spencer and Steele

Noes: Councilmen - NONE

Absent: Councilmen - NONE

Attest. _____

City Clerk